

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
ARTESIAN WASTEWATER MANAGEMENT, INC.,)
FOR APPROVAL OF A TARIFF, RATES, AND) PSC DOCKET NO. 04-430WW
RULES AND REGULATIONS TO GOVERN THE)
PROVISION OF WASTEWATER SERVICES IN)
DELAWARE (FILED NOVEMBER 12, 2004))

ORDER NO. 6675

This 5th day of July, 2005, the Commission determines and Orders the following:

1. In July 2004, this Commission assumed regulatory supervision over non-governmental public utilities providing wastewater services. See 74 Del. Laws ch. 317 (2004). Artesian Wastewater Management, Inc. ("AWM") is one of these new wastewater public utilities. And, in contrast to existing wastewater providers that were grandfathered under the statutory regime, AWM is a true "start up" wastewater utility.¹

2. By a previous Order, the Commission granted AWM a Certificate of Public Convenience and Necessity to begin its operations and to initially serve customers within a service territory encompassing a development called "Stone Water Creek" currently under construction in the Indian River Hundred in Sussex County. PSC Order No. 6589 (Mar. 8, 2005). And, while AWM's current service territory is limited to that one development, the utility contemplates growing its operations to serve other areas.

¹AWM is a sibling corporation of Artesian Water Company, Inc., a water utility subject to the Commission's regulatory supervision. The parent of both subsidiaries is Artesian Resources Corp.

3. With its application to begin business, AWM also submitted for Commission approval an initial proposed Tariff setting forth the terms and conditions for its services. The proposed Tariff also contained AWM's proposed rates, fees, and other charges. To support the proposed service rate and connection charge set forth in the Tariff, AWM presented its projections for the: (a) costs of constructing the components of the wastewater system that would serve the approximately 700 homes eventually contemplated for the Stone Water Creek development; (b) the annual projected "build-out" growth rate of homes in that development over an 8-year period; and (c) the projected demand (in terms of gallons of wastewater) contemplated to arise during the build-out period.²

4. To match these cost and demand estimates, AWM projected its operating expenses and rate base to serve within the development. Then, applying a 6.03 percent overall return to its projected rate base, it calculated an estimated annual revenue requirement for its services within its service territory. To meet that requirement, AWM proposed a service rate of \$90 per month, along with a \$1,500 per lot "connection fee" to be paid by the developer at the time of settlement on each lot within the development/service territory.³

²Appl. at ¶¶ 19-24.

³Appl. at ¶¶ 25-28. See also Appl. at Exh. 13 at pg. 5 (rate and fee in proposed Tariff). AWM represents that it will initially finance part of the construction costs for the Stone Water Creek system through a company line of credit. It offers that the proposed \$1500 per lot connection fees will be applied to repay such debt. AWM says that if AWM does not end up serving additional customers outside of the Stone Water Creek development, its continued collection of the \$1500 connection fee might - at some time during the build out for Stone Water Creek - potentially result in it earning a rate of return greater than that proposed by its application. It suggests

5. Staff has conducted an analysis of AWM's proposed rates, reviewed its proposed Tariff, and submitted its Report. Staff emphasizes that, by necessity, any review of AWM's expenses, capital costs, and customer growth involves the uncertainty of the use of projections and estimates. Staff also reports that during the course of Staff's investigation, AWM agreed to revise its monthly service rate downward to \$75 per month and rework its estimate of its annual operating expenses to \$462,011, resulting in an annualized revenue requirement of \$671,888. Staff, based on its investigation, recommends current approval of the \$75 monthly service charge and the \$1500 connection fee.⁴ At the same time, given the use of projections (for costs, expenses, and growth) Staff recommends that it be empowered to review those variables on an annual basis to ensure that actual events and costs mirror the presently presented projections. If actual events deviate from present estimates, the Commission can then revisit AWM's rates. More specifically, Staff recommends that:

- (a) the Commission confirm the use of an average net income approach as a basis for reviewing AWM's rates during the build-out phase within its current service territory;

that the Commission allow for such an eventuality by recognizing a "pooling" mechanism. Under that method, the utility's over-earnings in the later build-out years would be allowed as an offset to its under-earnings (and carrying costs) in the earlier years when the proposed fee structure would result in annual losses. Appl. at ¶ 28.

⁴As noted above, under the Tariff, the developer is the entity obligated to pay the \$1500 connection fee. Presumably, the developer will pass that cost onto the purchaser as part of the purchase price for the lot. In addition to the connection fee, the developer is to contribute \$2300 toward its capital investment in the treatment facility. Each connection fee paid by the developer will write down the line of credit debt used by the utility to fund part of its initial construction costs. AWM also represents that the developer will pay the connection fees for unsold lots in the event that growth in the development does not materialize as projected by AWM.

- (b) the Commission approve a \$75 per month service fee for each residential customer taking AWM's wastewater services;
- (c) the Commission approve the \$1500 "connection fee" to be paid by the developer at the time of the sale of a lot in the Stone Water Creek service territory;
- (d) the Commission direct AWM to develop a program that will inform purchasers of lots in the Stone Water Creek service territory of AWM's \$75 monthly service fee (to be paid by customers) and the \$1500 connection fee (to be paid by the developer); and
- (e) the Commission authorize Staff to monitor AWM's financial information on an annual basis to determine whether the capital costs, expense, and growth projections advanced in this docket to support the proposed rates and contributions turn out to be consistent with actual later experience.

6. The Commission finds the analysis outlined in Staff's Report thorough and its recommendations appropriate. However, it appears that neither Staff's Report, nor the rate change it proposes, have been previously shared outside of AWM and the Commission. Indeed, it also appears that AWM's initial proposed Tariff and rates were not subject to any prior public notice. Of course, AWM, as of now, does not have any "existing" customers that will be affected by these rates and fees. The rates and fees will only apply to those who later purchase property in AWM's service territory. Yet, the Commission believes that it would be appropriate to provide notice of the proposed rates and charges not just to the public at large but the Public Advocate before the Commission enters a final ruling on AWM's rates and its accompanying Tariff. To that end, the Commission will provide notice and allow the public and Public Advocate an opportunity

to voice comments or objections to AWM's proposals as well as Staff's analysis and recommendations. At the same time, the Commission recognizes that as lots in the service territory near sales, AWM needs some certainty about what rates and contributions it can recover from initial lot buyers. Also, the Commission recognizes that the developer has legitimate expectations in selling its properties which further delay in this matter might complicate.

7. Consequently, the Commission (exercising power somewhat akin to that granted under 26 Del. C. § 306(a)(2)) will now allow the \$75 monthly rate and the \$1500 connection fee (as endorsed by Staff) to go into effect on a temporary basis. At the same, AWM shall publish notice of its proposed rate and connection fee and the conclusions reached in Staff's Report. Interested persons or entities, including the Public Advocate, shall then have thirty days to file objections to the rates and fees or to file comments concerning Staff's analysis and recommendations. If no person or entity files objections or comments raising significant issues, the Commission will then finally approve the rates and fees now allowed on a temporary basis and adopt Staff's recommendations without further hearings. If objections or significant comments are submitted, the Commission will chart the course of the appropriate further proceedings by a later Order.

8. Finally, AWM filed with its November 2004 application a proposed Tariff that includes not only its rates but the terms and conditions for receiving its services). Staff has previously discussed with AWM several revisions to particular parts of the

Tariff. Within ten days from the date of this Order, AWM shall file a revised Tariff incorporating those changes and the modified rate and fee now allowed on a temporary basis. Such revised Tariff (and the modified rate and connection fee included therein) shall become effective once Staff approves such revised Tariff.

Now, therefore, **IT IS ORDERED:**

1. That, for the reasons set forth in paragraphs 6 and 7 in the body of this Order, Artesian Wastewater Management, Inc., is hereby authorized, on a temporary basis, to charge a monthly service fee of \$75 per month for wastewater services provided to customers within its current service territory. Similarly, Artesian Wastewater Management, Inc., is hereby authorized, on a temporary basis, to collect a \$1500 connection fee and a \$2300 capital contribution from the real estate developer within the utility's current service territory with such fee to be paid at the time of the transfer of title of property within the service territory.

2. That the rate and fee allowed, on a temporary basis under Ordering paragraph 1, shall be effective after Staff approves a revised Tariff filed by Artesian Wastewater Management, Inc. Artesian Wastewater Management, Inc., shall file such revised Tariff within ten days of the date of this Order.

3. That Artesian Wastewater Management, Inc., shall cause to be published in The News Journal newspaper, in two-column format enclosed in black, the form of Notice set forth in Exhibit "A" to this Order. Such Notice shall be published on or before July 20, 2005.

Artesian Wastewater Management, Inc., shall file proof of publication with the Commission prior to July 29, 2005.

4. That the Secretary shall promptly serve a copy of this Order accompanied with a copy of Staff's Report in this docket (dated June 29, 2005) on the Division of the Public Advocate.

5. That, as outlined in the form of Notice and paragraph 7 of the body of this Order, interested persons or entities are afforded the opportunity to file objections to the rates and fees now allowed on a temporary basis or any other terms and conditions contained in the revised Tariff filed by Artesian Wastewater Management, Inc. Similarly, interested persons or entities are afforded the opportunity to file comments related to the analysis and recommendations contained in the Report submitted by Staff in this matter. Such objections or comments shall be filed on or before August 19, 2005. If the Commission does not receive any objections or comments raising significant issues, the Commission may, by later Order, approve the revised Tariff (with the modified rate) submitted by Artesian Wastewater Management, Inc., without further notice or proceedings. If objections or significant comments are filed, the Commission will, by later Order, determine the course of any appropriate further proceedings.

6. That Artesian Wastewater Management, Inc., is hereby notified that it will, pursuant to 26 Del. C. § 114, be assessed the costs of this proceeding.

7. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

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Notice of Filing of Initial Tariff and Rates
for Artesian Wastewater Management, Inc.

TO: ALL INTERESTED PERSONS

Artesian Wastewater Management, Inc. ("AWM"), is a new wastewater public utility. It currently holds a certificate to provide public wastewater services in a service territory encompassing the Stone Water Creek development currently under construction in Indian River Hundred in Sussex County. AWM has filed with the Public Service Commission ("the PSC") an initial Tariff containing proposed rates, fees, and terms to govern the wastewater services it will provide within that current service territory. Such Tariff includes a \$1500 connection fee to be imposed at the time of the sale of each lot and a \$75 monthly service rate for wastewater services. The PSC's Staff has conducted an analysis of the Tariff's terms and the above rate and fee and has recommended that the PSC approve the Tariff and its rates, fees, and charges.

In PSC Order No. 6675 (July 5, 2005), the PSC allowed AWM's tariff and the above rate and charge to go into effect on a temporary basis, pending publication of notice of AWM's filings and the opportunity for interested persons to file objections or comments.

The PSC now solicits from any interested person or entity comments or objections to AWM's proposed Tariff and the rates, charges, and fees included in that document. The PSC also solicits comments concerning the PSC's Staff Report and its recommendations. If you wish to file any such comment or objection, you must file such document (10 copies) with the PSC by August 19, 2005. Such comments or objections shall be filed with the PSC at the following address:

Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, Delaware 19904
Attn: PSC Docket No. 04-430WW

You may also file a petition to intervene under Rule 21 of the Commission's Rules of Practice. Such petition also must be filed by August 19, 2005. Only persons filing comments, objections, or petitions will receive notice of further proceedings in this matter.

If no objections or significant comments are filed, the PSC may finally approve the Tariff proposed by Artesian Wastewater Management, Inc., and the rates, charges, and fees included in that Tariff without further notice or further proceedings.

If you wish to participate in this matter, you should review PSC Order No. 6675. That Order is available at www.state.de.us/delpsc. You may review (and copy) AWM's proposed Tariff and Staff's Report at the PSC's office at the above-listed address. If you want more

information you can contact the PSC at 1-800-282-8574 (Delaware only) or (302) 739-4247 (text telephone also). You can also send inquiries by Internet e-mail to robert.ambrose@state.de.us.